



FH
[REDACTED]

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/150600

PRELIMINARY RECITALS

Pursuant to a petition filed July 12, 2013, under Wis. Stat. § 49.45(5)(a), to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance, a hearing was held on August 20, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether petitioner has demonstrated good cause for missing a BadgerCare+ premium for her daughter which resulted in the discontinuance of BadgerCare+ for her daughter with a six-month restrictive reenrollment penalty imposed.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street
Madison, Wisconsin 53703

By: Jose Silvestre

Milwaukee Enrollment Services
1220 W Vliet St
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.

2. Petitioner filed this appeal to contest the imposition of a six-month restrictive reenrollment imposed on her child's BadgerCare+ eligibility because of the failure to pay a BadgerCare+ premium.
3. Petitioner's group size is two.
4. In early January 2013 the agency received employment verification indicating that petitioner's income was \$50,000 per year. Petitioner's daughter has unearned income of \$81.61. After a child support obligation of \$87 the agency found Petitioner's income can be \$4160.61. ($\$50,000/12=\$4,166.67 - \$87+ \$81.61=\4160.61)
5. The federal poverty level (FPL) for a group of two is \$1292.50. Thus the agency determined Petitioner's income to be 321.9% of the FPL.
6. At 321.9% of the FPL a BadgerCare+ premium in the amount of \$97.53 was due for the daughter as of March 2013. That was paid in March and April but not for May 2013 forward. Petitioner's daughter was placed in a restrictive reenrollment for 6 months effective June 1, 2013.
7. Petitioner was sent a Notice of Decision dated May 17, 2013 that informed Petitioner that the BadgerCare+ eligibility for the daughter would end June 1, 2013 for failing to pay the premium. That was sent to the above address.

DISCUSSION

The BadgerCare+ program premium rules are as follows:

19.1 BC+ Premiums

Unless exempt, the following individuals must pay a premium to become or remain eligible for BC+:

1. Children in families with income over 200% of the Federal Poverty Level (FPL),
2. Parents, stepparents and caretaker relatives with income over 133% through 200% of the FPL,
3. Parents, stepparents and caretaker relatives with income over 133% in a BC+ Extension, and
4. Self-employed parents, stepparents and caretaker relatives with income above 200% of the FPL before subtracting the depreciation but below 200% of the FPL after subtracting the depreciation.

BadgerCare+ Eligibility Handbook (BEH), §19.1.

19.8.1 Non-Payment Introduction

The failure to pay a premium does not affect the eligibility of any person in the household who does not have a premium obligation. If an individual or family with a premium obligation fails to pay the premium by adverse action of the benefit month, BC + will close for those individuals who owed a premium. If those individual(s) are children under age 19, they are not eligible for six calendar months following the date on which their coverage terminated, unless there was good cause. If those individuals are adults age 19 and older, they are not eligible for 12 calendar months following the date on which their coverage terminated, unless there was good cause.

If a late payment is received by the end of the month after the benefit month, lift the Restrictive Re-enrollment Period (RRP) The period of time an individual is not eligible to enroll in BC+ due to non payment of a premium. (19.11) and reinstate eligibility.

...

BEH, §19.8.1.

Good cause is defined as circumstances beyond the individual's control:

(b) *Reasons restriction on re-enrollment may not apply.* The restriction on re-enrollment under this section does not apply for either of the following reasons:

1. The failure to pay premiums was due to a circumstance beyond the group's control, provided that all past due premiums have been paid in full. A circumstance beyond the group's control includes any of the following:
 - a. A problem with an electronic funds transfer from a bank account to the BadgerCare program.
 - b. A problem with an employer's wage withholding.
 - c. An administrative error in processing the premium.
 - d. Any other circumstance affecting payment of the premium which the department determines is beyond the group's control, but not including insufficient funds.
2. A significant change in household composition occurred. A significant change occurs when one of the following events occurs:

...

Wis. Admin. Code, §DHS 103.085(3)(b); also see BEH, §19.8.3.

Once a person is in restrictive re-enrollment, the entire penalty period must be served unless household income drops below the level for which a premium is required. *BEH, §19.11.2.*

Here Petitioner's employer was paying the BadgerCare+ premium of behalf of the daughter but did not do so in May because it did not receive the premium due notice. Petitioner indicates that the address for the premium notice was changed to that of the employer but the employer did not let her know that it had not received the premium notice and had not paid it. Petitioner was sent a Notice of Decision dated May 17, 2013 that informed her that the premium had not been paid. Petitioner indicates that she did not get the notice and has problems with mail delivery as her home was converted from a one family to a two family. Petitioner was credible. Given the factors that there was an address change as well as a mail problem, I am concluding that Petitioner has demonstrated good cause for missing the premium. To lift the restrictive reenrollment Petitioner will, however, have to pay all back premiums.

CONCLUSIONS OF LAW

That Petitioner has shown good cause for failing to pay a BadgerCare+ premium thus a six month restrictive reenrollment period may be lifted upon payment of all past premiums.

THEREFORE, it is

ORDERED

That this matter is remanded to the agency with instructions to send Petitioner a notice providing her with the amount of premium due to lift the restrictive reenrollment and the time within which that premium must be paid. This notice must be issued within 10 days of the date of this Order. If Petitioner elects to pay the premium the BadgerCare+ eligibility of her daughter must immediately be restored back to June 1, 2013.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

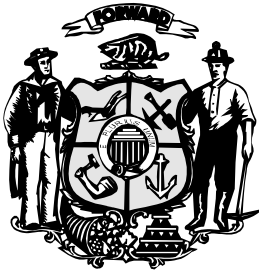
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 23rd day of September, 2013

\sDavid D. Fleming
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on September 23, 2013.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability